
**BZA-1908
O ROMNEY, LLC
Variance**

**STAFF REPORT
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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, represented by Keith Turnbull of Re/Max, is requesting a variance to permit 33 parking spaces instead of the required 46 spaces for an existing Dollar General Store located in Romney and more commonly known as 11020 US 231 South, Randolph 19 (NE) 21-4.

AREA ZONING PATTERNS:

The site in question and land to the north at the corner of SR 28 and US 231 is zoned GB, General Business. AW (Agricultural Wooded) zoning is to the west and south. R1 (Single-family Residential) zoning is east across 231.

AREA LAND USE PATTERNS:

A Dollar General store is located on the subject lot and the property to the north is used commercially (auto sales and service). Single-family homes are located south and east across US 231 and a farm field borders to the west.

TRAFFIC AND TRANSPORTATION:

The site in question has access to US 231 (rural primary arterial) just south of its intersection with SR 28. Traffic counts taken in 2011 indicate that approximately 8,000 vehicles pass this site daily. Retail establishments in the GB zone are required to provide 1 paved parking space per 200 square feet of gross floor area. The building on site is 9,100 square feet, hence requiring 46 spaces.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The site is served by septic and well.

Bufferyards are required on the southern property line where the GB zoning abuts R1 zoning (Type C) and on the western property line where it abuts AW zoning (Type B). While the site plan for the building permit show the area reserved for bufferyards, the landscaping plan does not comply with the ordinance. Staff contacted the petitioner and made him aware of the deficiency and he agreed that the required bufferyards would be installed. If the bufferyards are not installed, a zoning violation will be issued by the County Building Commissioner (the Administrative Officer for unincorporated Tippecanoe County).

STAFF COMMENTS:

Earlier this spring, staff was contacted by a company who was checking the Dollar General site for zoning compliance. At this point, staff was made aware that the store, which had been in operation for nearly two years, was non-complying because only 33 of the required 46 parking spaces were provided. Staff checked the building permit file and found that the site plan only shows the existing 33 spaces; evidently, the submitted site plan was never checked for zoning compliance.

Petitioner is now seeking relief from the non-complying parking situation by requesting a variance. While staff is not aware of any complaints or problems with the smaller than required parking lot, the site could have been developed with the proper number of parking spaces. A review of the submitted site plan does in fact show adequate room exists for 13 additional parking spaces to be installed. Ten 9' x 18' parking spaces and a 22' wide maneuvering aisle would fit on the northern side of the store opposite the 11 spaces shown along the building. Three more spaces would fit in the southeast corner of the property simply by extending the existing parking area. Paving the required 13 additional spaces would not intrude into the ordinance required bufferyards.

The store's building permit was issued erroneously with no review of zoning compliance and with less parking shown on the site plan than the ordinance requires. Unfortunately, this does not create an ordinance-defined hardship. The UZO clearly states that "any improvement initiated in violation of the standards of this ordinance" cannot be deemed a hardship justifying a variance from the ordinance.

Regarding the ballot items:

1. The Area Plan Commission at its June 18, 2014 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. The store has been in operation for more than 2 years and no complaints have been filed about the lack of parking spaces provided.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. Because no vehicles have been observed parking along the highway or on neighboring properties, use and value of adjacent properties will not be negatively affected.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. There is nothing unusual about this lot's shape, size or topography that would prevent the required parking from being installed. This lot was recently final platted and its size and configuration should have been designed to accommodate the footprint, septic field and necessary

number of parking spaces. Even though a building permit and certificate of occupancy were issued, section 6-2-4(c) of the Unified Zoning Ordinance states that “any improvement location permit or certificate of occupancy issued in conflict with any of the provisions of this ordinance is null and void”. Additionally, staff believes that adequate room exists to install the 13 spaces required to meet the parking standard.

5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The UZO definition of “hardship” states that, “self-imposed situations...will not be considered hardships.” It further states that “self-imposed situations include...any improvement initiated in violation of the standards of this ordinance.” If this variance is denied, adequate room exists on site to install the additional parking required by the ordinance.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. As stated above, the hardship involved **IS** self-imposed because the building and parking lot were constructed in violation of the UZO. Adequate room exists on site to install the 13 additional parking spaces.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. By definition there is no hardship; there is also no need for minimum relief since adequate area exists on site to install the required 13 parking spaces.

STAFF RECOMMENDATION:

Denial